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August 5, 2005

**VIA HAND DELIVERY**

Mr. Charles L.A. Terreni  
Chief Clerk/Administrator  
**South Carolina Public Service Commission**  
101 Executive Center Dr., Suite 100  
Columbia, SC 29210

Re: Petition of the Office of Regulatory Staff to Request Forfeiture of the  
Bond and to Request Authority to Petition the Circuit Court for  
Appointment of a Receiver.  
**PSC Docket No.: 2005-110-W/S**

Dear Mr. Terreni:

Enclosed please find the original and ten (10) copies of the Office of Regulatory Staff's Reply to Mr. and Mrs. Williams' Answer to ORS's Petition. Please date stamp the extra copy enclosed and return it to me via our courier.

Please let me know if you have any questions

Sincerely,

Benjamin P. Mustian

BPM/rng  
Enclosure

cc: Louis Lang, Esquire  
Jessica J.O. King, Esquire  
Julie F. McIntyre, Esquire  
Hugh Buyck, Esquire

**BEFORE**  
**THE PUBLIC SERVICE COMMISSION**  
**OF SOUTH CAROLINA**

**DOCKET NO. 2005-110-W/S**

IN RE:

Petition of the Office of Regulatory )  
Staff to Request Forfeiture )  
of the Piney Grove Utilities, Inc. )  
Bond And to Request Authority )  
To Petition the Circuit Court for )  
Appointment of a Receiver )  
\_\_\_\_\_ )

**CERTIFICATE OF SERVICE**

This is to certify that I, Rena Grant, an employee with the Office of Regulatory Staff, have this date served one (1) copy of the **Office of Regulatory Staff's Reply to Mr. and Mrs. Williams'**

**Answer to ORS's Petition** in the above-referenced matter to the person(s) named below:

**VIA CERTIFIED MAIL**

Louis Lang, Esquire  
**Callison, Tighe & Robinson, LLC**  
1812 Lincoln Street, Suite 200  
Columbia, SC 29202-1390

Hugh W. Buyck, Esquire  
**Buyck Law Firm, LLC**  
Post Office Box 630  
Charleston, SC 29402-0630

**VIA U.S. MAIL**

Jessica J.O. King, Esquire  
**SC DHEC**  
2600 Bull Street  
Columbia, SC 29201

Julie F. McIntyre, Esquire  
**SC DHEC**  
2600 Bull Street  
Columbia, SC 29201

  
\_\_\_\_\_  
Rena Grant

August 5, 2005  
Columbia, South Carolina

SC DHEC  
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BEFORE  
THE PUBLIC SERVICE COMMISSION OF  
SOUTH CAROLINA

DOCKET NO. 2005-110-W/S

AUGUST 5, 2005

IN RE: Petition of the Office of Regulatory )  
Staff to Request Forfeiture )  
of the Piney Grove Utilities, Inc. )  
Bond And to Request Authority )  
To Petition the Circuit Court for )  
Appointment of a Receiver )

REPLY TO MR. AND MRS.  
WILLIAMS' ANSWER TO  
ORS'S PETITION

The Office of Regulatory Staff ("ORS") hereby submits this Reply to the affirmative defenses set forth in the Answer to the Petition of the Office of Regulatory Staff by D. Reece Williams, IV, and Elizabeth P. Williams as filed by Mr. Hugh W. Buyck, Esquire, on behalf of D. Reece Williams, IV, and Elizabeth P. Williams ("Mr. and Mrs. Williams") in the above referenced docket on August 4, 2005.

1. As of the filing of this Reply, the Motion for Leave to Intervene as filed by Mr. and Mrs. Williams has not been granted by the Commission. Additionally, the Answer appears to refer to Mr. and Mrs. Williams as Petitioner and Defendant and, in some instances, possibly as Respondent. Further, the Answer seems to refer to ORS as both Plaintiff and Petitioner. For the purposes of this Reply, the term "ORS" means "the Office of Regulatory Staff;" the term "Mr. and Mrs. Williams" means "D. Reece Williams, IV, and Elizabeth P. Williams;" and the term "Respondent" means "Piney Grove Utilities, Inc."

2. While ORS herein submits its Reply to the Answer filed by Mr. and Mrs. Williams, ORS asserts that no such reply is required.

3. Each and every allegation or affirmative defense of Mr. and Mrs. Williams not hereinafter specifically admitted or consented to is denied and opposed.

4. Paragraphs 1 through 11 are responses to ORS's Petition and, as such, require no reply from ORS.

5. In Paragraph 12, Mr. and Mrs. Williams raise, as a first affirmative defense, that the Petition filed by ORS is moot, in whole or in part, by way of various orders entered or to be entered in the Court of Common Pleas for the Eleventh Judicial Circuit in that the "Respondents" have no custody, control or ability to address the issues raised within the Petition. It is unclear whether the term "Respondents" refers to Mr. and Mrs. Williams or Piney Grove Utilities, Inc. For the purposes of replying to this affirmative defense, ORS assumes the Answer uses the term "Respondents" to mean Piney Grove Utilities, Inc. ORS denies and opposes this affirmative defense and asserts that the issues raised in its Petition are not moot and that the Respondents do have custody, control and ability to address the issues raised within the Petition. ORS would incorporate, as a reply to this affirmative defense, the assertions included in its Response to Piney Grove Utilities, Inc.'s Supplemental Answer in Response to the Petition filed on August 1, 2005, and in its Response to Piney Grove Utilities, Inc.'s Motion for a Continuance filed on August 3, 2005. To the extent any allegation or affirmative defense in this paragraph remains unanswered, the same are denied and opposed as ORS lacks sufficient information to adequately reply to this allegation or defense.

6. Paragraph 13 requires no reply from ORS.

7. In Paragraph 14, Mr. and Mrs. Williams raise, as a second affirmative defense, that the Petition as requested and the relief requested by ORS would violate these "Defendants'" rights of due process. It is unclear whether the term "Defendants" refers to Mr. and Mrs.

Williams or Piney Grove Utilities, Inc. For the purposes of replying to this affirmative defense, ORS assumes the Answer uses the term “Defendants” to mean Mr. and Mrs. Williams. To the extent Mr. and Mrs. Williams allege that their rights of due process would be violated due to their not being a party to this proceeding, ORS replies that it has notified the Commission that it does not oppose Mr. and Mrs. Williams’ Motion for Leave to Intervene filed on August 4, 2005; as ORS consents to Mr. and Mrs. Williams being made parties to this proceeding, Mr. and Mrs. Williams’ due process rights would not be violated. To the extent Mr. and Mrs. Williams allege that their rights of due process or another party’s rights of due process would be violated due to other reasons, ORS asserts that Mr. and Mrs. Williams have not provided and have not afforded ORS sufficient information in its Answer upon which to adequately reply to this defense. ORS asserts that neither Mr. and Mrs. Williams’ due process rights nor any other party’s due process rights would not be violated. ORS would incorporate, as a reply to this affirmative defense, the assertions included in its Response to Motion to Sever and Motion for Joinder of Additional Parties filed on May 13, 2005. To the extent any allegation or affirmative defense in this paragraph remains unanswered, the same are denied and opposed as ORS lacks sufficient information to adequately reply to this allegation or defense.

8. Paragraph 15 requires no reply from ORS.

9. In Paragraph 16, Mr. and Mrs. Williams raise, as a third affirmative defense, that the requested retroactive relief asserted by ORS is in violation of terms and conditions of the surety bond, Title 58 of the South Carolina Code, the South Carolina Constitution, and the United States Constitution. ORS would assert that Mr. and Mrs. Williams have not provided and have not afforded ORS sufficient information in their Answer upon which to adequately reply to this allegation or defense. ORS would assert that the relief requested does not violate the terms

and conditions of the surety bond, Title 58 of the South Carolina Code, the South Carolina Constitution, and the United States Constitution. ORS would incorporate, as a reply to this affirmative defense, the assertions included in its Response to Piney Grove Utilities, Inc.'s Supplemental Answer in Response to the Petition filed on August 1, 2005, and in its Response to Piney Grove Utilities, Inc.'s Motion for a Continuance filed on August 3, 2005. To the extent any allegation or affirmative defense in this paragraph remains unanswered, the same are denied and opposed as ORS lacks sufficient information to adequately reply to this allegation or defense.

10. Paragraph 17 requires no reply from ORS and to the extent such a reply may be required the same is denied and opposed.

11. In Paragraph 18, Mr. and Mrs. Williams raise, as a fourth affirmative defense, that the requested relief asserted by ORS should be denied due to the impossibility of performance due to the actions, inactions and regulatory efforts undertaken by ORS, including, but not limited to, the Receivership Agreement. ORS would assert that Mr. and Mrs. Williams have not provided and have not afforded ORS sufficient information in their Answer upon which to adequately reply to this allegation or defense. ORS would assert that any actions, inactions and regulatory efforts undertaken by ORS did not create, result in, or lead to an impossibility of performance. ORS would incorporate, as a reply to this affirmative defense, the assertions included in its Response to Piney Grove Utilities, Incorporated's Supplemental Answer in Response to the Petition filed on August 1, 2005, and in its Response to Piney Grove Utilities, Incorporated's Motion for a Continuance filed on August 3, 2005. To the extent any allegation or affirmative defense in this paragraph remains unanswered, the same are denied and opposed as ORS lacks sufficient information to adequately reply to this allegation or defense.

12. Paragraph 19 requires no reply from ORS and to the extent such a reply may be required the same is denied and opposed.

13. In Paragraph 20, Mr. and Mrs. Williams raise, as a fifth affirmative defense, that ORS's Petition should be dismissed, in its entirety, for lack of jurisdiction over the subject matter and parties and failure to bring the action in the name of the real parties in interest. ORS would assert that Mr. and Mrs. Williams have not provided and have not afforded ORS sufficient information in their Answer upon which to adequately reply to this allegation or defense. To the extent Mr. and Mrs. Williams assert that the Commission does not have jurisdiction over the subject matter and the parties to this action, ORS would assert that S.C. Code Ann. § 58-5-210 (1976) provides that

“The Public Service Commission is hereby, to the extent granted, vested with power and jurisdiction to supervise and regulate the rates and service of every public utility in this State, together with the power, after hearing, to ascertain and fix such just and reasonable standards, classifications, regulations, practices and measurements of service to be furnished, imposed, observed and followed by every public utility in this State and the State hereby asserts its rights to regulate the rates and services of every "public utility" as herein defined.”


Furthermore, ORS has not opposed Mr. and Mrs. Williams' Motion for Leave to Intervene in this proceeding. ORS would assert that the Commission does have jurisdiction over the subject matter and the parties and would deny Mr. and Mrs. Williams' assertion that ORS failed to bring the action in the name of the real parties in interest. ORS would incorporate, as a reply to this affirmative defense, the assertions included in its Response to Motion to Sever and Motion for Joinder of Additional Parties filed on May 13, 2005. To the extent any allegation or affirmative

defense in this paragraph remains unanswered, the same are denied and opposed as ORS lacks sufficient information to adequately reply to this allegation or defense.

**WHEREFORE**, ORS prays that the Honorable Commission:

1. Deny the Affirmative Defenses set forth in Mr. and Mrs. Williams' Answer to the Petition of the Office of Regulatory Staff by D. Reece Williams, IV, and Elizabeth P. Williams filed with the Commission on August 4, 2005.
2. Grant the relief sought by ORS in its Petition filed April 22, 2005.
3. For other appropriate action which the Commission may deem necessary.

OFFICE OF REGULATORY STAFF

By:   
Benjamin P. Mustian, Esq.  
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Columbia, South Carolina 29211  
Telephone: (803) 737-0800

Columbia, South Carolina  
August 5, 2005